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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

22 Cr. 673 (LAK)

5 SAMUEL BANKMAN-FRIED,

6 Defendant.

Conference

7
8 New York, N.Y.
9 March 10, 2023
11:02 a.m.

10 Before:

11 HON. LEWIS A. KAPLAN,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
Southern District of New York

16 BY: NICOLAS ROOS, ESQ.

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20 BY: MARK S. COHEN, ESQ.

CHRISTIAN R. EVERDELL, ESQ.

21 ALSO PRESENT: KRISTIN M. ALLAIN, Special Agent, FBI
LUKE BOOTH, Special Agent
22 TUNDE ADIJERAN, Special Agent
23
24
25

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1 THE COURT: Good morning, everybody.

2 Okay. Well, I have the letters. Let me find out,
3 first of all, what's going on about the discovery. So who's
4 going to address that for the government?

5 MR. ROOS: I will, your Honor. Do you want me to
6 speak from here or from the lectern?

7 THE COURT: Let's do the lectern, please.

8 MR. ROOS: So, your Honor, when we appeared before you
9 for the initial arraignment back in January, Ms. Sassoon
10 described the discovery and indicated that there was a
11 substantial volume that we'd be in a position to produce
12 quickly, largely productions of documents from third parties,
13 either from subpoena returns or voluntary productions, as well
14 as some information that had been seized, through search
15 warrants and other legal process, and we did that in January.
16 We produced all of the search warrants and affidavits that had
17 been sworn out to date, which are obviously important for
18 motion practice.

19 THE COURT: I'm sorry. All of the search warrants,
20 something that would be important for —

21 MR. ROOS: Search warrants and affidavits that would
22 be important for motion practice, suppression motions. And we
23 produced approximately 2 million documents, which represented
24 the documents collected from third parties that the government
25 had at that time.

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1 Now Ms. Sassoon also described at that initial
2 conference that this is a case that there was likely to be a
3 substantial tail, in terms of ongoing discovery production, and
4 that comes in really two forms. Number one is, the
5 government's ongoing —

6 THE COURT: Let me ask you a question before we go
7 further.

8 MR. ROOS: Sure.

9 THE COURT: Is the production that you made in January
10 a complete production as of the date you made the production?

11 MR. ROOS: The production we made in January was a
12 complete production as of the date of production of search
13 warrant — of subpoena returns, search warrant applications,
14 third-party voluntary document productions, but there are a few
15 other things that were not produced at that time that I can get
16 into relating to basically electronic devices.

17 THE COURT: Well, basically or exclusively?

18 MR. ROOS: Well, there's a caveat to really
19 everything, your Honor. Mostly electronic devices. The reason
20 I'm hedging is twofold. Number one, around that time we
21 obtained a warrant for approximately 30 Google accounts, and so
22 we got that right around then. That requires privilege review
23 and also review for the responsiveness of the warrant, so
24 that's something that's ongoing. And second is because the
25 amount of information coming in to the government is constant

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1 — literally every day we get a production, a response to a
2 subpoena or voluntary request — for each discovery production
3 we have to freeze in a moment of time. So literally when I
4 tell a vendor, please stamp a million subpoena — a million
5 pages of subpoena returns, by the time they finish applying the
6 Bates stamps, we now have another 50,000 pages. And so when I
7 say we produced everything we had at that time, literally, by
8 the time we're producing it, we already had a little bit more.
9 But that's why we're doing —

10 THE COURT: Let's call the "as of that time/date," the
11 "effective as of that date," or "the effective date."

12 MR. ROOS: Yes, your Honor.

13 THE COURT: Okay? Whatever it is, the effective date.
14 So when you produced in January, you had produced — with the
15 exception of electronic stuff, which we'll get to — whatever
16 you had as of the effective date; is that correct?

17 MR. ROOS: Correct, correct.

18 THE COURT: Okay. Now where does the Google
19 production stand in relation to that?

20 MR. ROOS: Right. So I think, basically, as I see it,
21 what remains, I'm going to put into four categories. Number 1
22 are those electronic devices, which I can give your Honor more
23 detail on if you'd like.

24 THE COURT: We'll get to that.

25 MR. ROOS: Number 2 is the Google search warrant

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1 return; Number 3 is the ongoing production of documents
2 pursuant to subpoena; and Number 4 are sort of what I'll just
3 call dribs and drabs. They are, you know, documents the
4 government downloaded from the internet but are publicly
5 available but we're going to give them in Rule 16 discovery;
6 you know, reports maybe that — from the FBI about the service
7 of a search warrant, things like that. That's a very small
8 amount. So principally, when we're talking about discovery,
9 we're talking about three things, which are the Google, the
10 devices, and then the ongoing production of subpoena returns
11 that have come after the effective date. And I can go in
12 whatever order your Honor wants.

13 THE COURT: Well, let's start with the electronic
14 devices.

15 MR. ROOS: So the government produced some electronic
16 devices in discovery in January, and there are five devices
17 left, and the reason that those devices have not been produced
18 or a subset of the material from those devices have not been
19 produced —

20 THE COURT: Well, it's the latter, right? It's not
21 the former.

22 MR. ROOS: So certain of the devices — three of the
23 devices were obtained on consent, and so we intend to produce
24 the entirety of the image of the device minus withholdings for
25 privilege. So if the device holder had communications with

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1 either counsel for the company or his or her individual
2 counsel, we won't be giving those to Mr. Bankman-Fried because
3 it's not Mr. Bankman-Fried's privilege, but we'll — for those
4 on-consent devices, we'll be producing everything else.

5 THE COURT: Okay.

6 MR. ROOS: And then there are two devices — so there
7 are three devices that fall into that category, and the holdup
8 there is simply either the — the extraction and processing —
9 these are large computers, people who do a lot of coding, and
10 so they're not the type of thing you can plug in and just copy
11 overnight, so the delays there have been the literal extraction
12 of these laptops, and then the privilege review. And so that's
13 three of the devices.

14 The two other devices were obtained pursuant to
15 warrant. They are not the defendant's devices, they are the
16 devices of a co-conspirator. Those have been processed
17 electronically by the FBI, and they have gone through privilege
18 review, and so we are in the stage — the final stage, which is
19 the responsiveness analysis, and we'll produce the subset of
20 the materials responsive to the warrant to the defense.

21 THE COURT: When?

22 MR. ROOS: Well, both of those responsiveness reviews
23 are fairly far along. One of them we were actually effectively
24 done, although we recently realized there was an issue
25 basically with how some of the information was rendered so I

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1 think we probably need to go back, look at the underlying
2 image, and that may take a few weeks, but I think we're sort of
3 in the —

4 THE COURT: All right. For the sake of discussion, so
5 I can keep this straight in my mind and in my notes, let's call
6 the three devices you got on consent searches, devices A, B,
7 and C, and the other two that you got pursuant to a warrant, D
8 and E, okay?

9 MR. ROOS: Correct.

10 THE COURT: So you are going to produce essentially a
11 clone of the hard drives of A, B, and C, minus privileged
12 documents, without regard to responsiveness or with regard to
13 responsiveness?

14 MR. ROOS: Without regard to responsiveness because
15 the device holders consented —

16 THE COURT: So is the privilege review on A, B, and C
17 done?

18 MR. ROOS: No. The privilege review on — I'll say A
19 is effectively done, just needs to be finalized. Privilege
20 review on B and C is still ongoing. I'll say C literally just
21 finished sort of the extraction process and so I think the
22 privilege review has not begun on C. So A, almost done; B, in
23 the middle; C, privilege review needs to start.

24 THE COURT: And what's the target date for production
25 on A, B, and C?

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1 MR. ROOS: Well, my hope, your Honor, would be in the
2 next few weeks. Because these are laptops, there's sometimes
3 issues, which is I'll say the case for device D, which I can
4 get into, but — but certainly since these are on consent and
5 don't need to go through a responsiveness review, it shouldn't
6 be — this should not be a long process.

7 THE COURT: So we can rely on those being done in
8 March, huh?

9 MR. ROOS: Yeah, I think so.

10 THE COURT: Now what about D and E?

11 MR. ROOS: So D is a laptop that was obtained pursuant
12 to warrant. We did a review for privilege, which is done;
13 responsiveness, which is largely done; there was a very large
14 volume of documents within our review platform that basically
15 looked like they were gibberish, thousands and thousands of
16 these. It could be they are just system files that are in
17 fact, you know, gibberish at least to a person just looking at
18 them in a document review platform, but we want to
19 double-check, since the defendant isn't getting the entirety of
20 the device, so we're going to go back and look at that. But
21 otherwise D is, for all intents and purposes, done.

22 THE COURT: So I would assume that can be produced in
23 March also, right?

24 MR. ROOS: I think so. I mean, the only caveat I want
25 to put on that one, your Honor, is just if that process of

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1 going back, looking at the original image proves that there was
2 — something went wrong in terms of importing it into the
3 document review platform, then there could be delays. But if
4 your Honor wants, we can advise you and talk to defense if that
5 happens.

6 THE COURT: What about E?

7 MR. ROOS: So E is a cellphone, and it's got a fairly
8 voluminous volume. I guess that's redundant. The volume on it
9 is substantial, your Honor. But I think we're fairly far along
10 in the responsiveness review and we can complete that in March.

11 THE COURT: So it sounds to me like it perhaps is not
12 as bad as I feared from the letter I got yesterday, I guess.

13 MR. ROOS: Well, I don't want to create a
14 misimpression. We should talk about the Google return and
15 then —

16 THE COURT: Okay. So let's talk about the Google
17 return.

18 MR. ROOS: So —

19 THE COURT: What a good idea the internet was. I
20 mean, I remember the days when a big document case was 400.
21 And nobody ever had a lawsuit with more than four defendants
22 because you couldn't make enough carbon copies.

23 MR. ROOS: Right.

24 THE COURT: I'm dating myself a little, huh?

25 Go ahead.

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1 MR. ROOS: So, your Honor, the warrant — the warrant
2 itself and the affidavit have been produced to the defense. I
3 flagged that just as your Honor is thinking about motion
4 deadlines and motion practice.

5 THE COURT: Sure.

6 MR. ROOS: In terms of the actual return, Google has
7 been producing it on a rolling basis. They've made five
8 productions. Four of them I believe have been loaded to our
9 relativity document review platform, the fifth one is in the
10 process of being loaded now. So by early next week it may be
11 loaded. Three of those four that have been loaded have gone
12 through the privilege review. And so the two remaining — the
13 one that's been loaded but has not been privilege reviewed and
14 the one that's still being loaded — need to be privilege
15 reviewed. The privilege review of the Google returns is a lot
16 faster than it is of electronic devices because all the
17 materials are just loaded into a review platform and then the
18 filter team searches, for instance, Mr. Everdell's name in it
19 and just excludes those documents.

20 So in terms of the Court's thinking, I don't think the
21 privilege review should be a significant delay in the process.
22 Rather, the issue is the return on the warrant yielded I think
23 somewhere between 2-3 million documents, and those are subject
24 to a responsiveness review since it's a warrant. So in order
25 to move this along as quickly as possible, we're making a

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1 production — I think it will come out next week — to the
2 defendant of all of the emails in the email accounts that
3 belong to the defendant, irrespective of a responsiveness
4 review. We think he's legally entitled to the entirety of the
5 accounts and so we're producing those, so he knows what we got
6 back. And then we'll later give him a responsive set of both
7 his — the responsive materials within his accounts and the
8 responsiveness materials from the other accounts that don't
9 belong to him, for which I don't think he would have standing
10 to litigate, but in any event, you know, of course we're still
11 doing our responsiveness review as required by the warrant.

12 THE COURT: Now these five returns that Google has
13 made to date, is Google done producing, or are they still
14 rolling?

15 MR. ROOS: We think they're done.

16 THE COURT: Okay.

17 MR. ROOS: And let me also just explain that the five
18 returns are not equal in size. It seems like they were sort of
19 front-loaded. So the defendant's accounts, for instance, were
20 in production 1, the latter productions are for other FTX or
21 Alameda employees and are for sort of a smaller set of
22 documents.

23 THE COURT: Okay. So when do you think you can
24 finish, on Google?

25 MR. ROOS: So candidly, your Honor, I don't think that

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1 will be done in March. I think — I think April is a more
2 realistic sort of time frame, and I think we can produce things
3 on a rolling basis and we can also prioritize the review. For
4 instance, we can prioritize the responsiveness review of the
5 defendant's accounts first, which may make sense, as we're just
6 thinking about a schedule for motion practice, and then sort of
7 treat the other accounts afterwards.

8 THE COURT: Okay. And then we've had ongoing subpoena
9 returns. Do you have outstanding subpoenas?

10 MR. ROOS: So, yes, your Honor. Obviously, as your
11 Honor knows, the government has superseded in this case. We
12 have ongoing investigations, not just with respect to the
13 defendant; there's obviously four defendants on this particular
14 docket. And so I think it's realistic to expect that we're
15 going to continue to make productions that come in through —
16 by subpoena, past April. I think this is going to be a thing
17 that keeps going, although I will say the volume is continuing
18 to shrink. Obviously the first production was 1.7 million, the
19 next one is around 287,000, and then it's going to keep getting
20 smaller and smaller.

21 THE COURT: I think what I'm getting at is, are all
22 the subpoenas on which you expect to get returns outstanding
23 now or you're saying there is some material outstanding and
24 that you'll be serving more subpoenas?

25 MR. ROOS: I think the latter; not necessarily

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1 subpoenas directed at the defendant's conduct directly,
2 although they would relate to potentially unindicted
3 co-conspirators of the defendant for which we would, of course,
4 have a Rule 16 obligation to produce the return.

5 THE COURT: Now are there any outstanding subpoenas
6 where material is still due to come in?

7 MR. ROOS: So I think the one to flag, which is not
8 actually a subpoena but is ongoing voluntary document
9 production, is from FTX itself, and that's because the
10 government made many requests for which FTX is continuing to
11 produce either because they are continuing to find — this is
12 the estate, the debtor — is continuing to find records or
13 because we're making new requests of them as our investigation
14 progresses. I think that's the most significant. There are
15 other — a handful of other categories, but they're things
16 like, you know, a subpoena to American Express or some — or to
17 a bank, and so not sort of the same size and potential
18 significance in the case.

19 THE COURT: Okay. Mr. Cohen, Mr. Everdell, who's
20 going to deal with this? I just want to get your take on where
21 the discovery stands and where it's likely to go.

22 MR. COHEN: Thank you, your Honor. I guess I'll
23 start, and I may turn it over to Mr. Everdell.

24 The one point we raised in our letter, stepping back,
25 is we've heard a lot of detail from Mr. Roos today and I think

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1 we just have to see now. From the defense side, it sounds like
2 we're going to get a lot of material in March, and maybe, you
3 know, April, could mean early April or not, but we do
4 appreciate the update he gave to the Court. The one thing that
5 it strikes us does need to move is the motion schedule, in
6 light of where we are in the discovery and also the superseding
7 indictment. So —

8 THE COURT: The discovery schedule you proposed in
9 your March 8 letter, which you say is agreeable to the
10 government, and I assume so, is fine with me.

11 MR. COHEN: Okay.

12 THE COURT: All right. What's not so fine is the
13 possibility of a request to move the trial.

14 MR. COHEN: Right.

15 THE COURT: But you haven't made it and it's down the
16 road. And all I'm saying is, don't get your hopes up. If I'm
17 really totally persuaded you need it, obviously, but in cases
18 like this, there's always an argument that you need it.

19 MR. COHEN: Of course.

20 THE COURT: We'll deal with that if and when you make
21 it.

22 MR. COHEN: That's right. We're not making an
23 application today. We were the ones who asked for the October
24 trial date, and we still would like to proceed on that
25 schedule. And by the way, we're not faulting the government

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1 team here, but sometimes, as we all know, discovery does take
2 longer than anyone anticipated, so we'll see what happens.

3 THE COURT: No, no. I'm extremely happy about the
4 extent to which the lawyers on both sides are working
5 cooperatively and amicably, and I wish it were that way in all
6 my cases. It isn't, I can assure you.

7 Okay. So that takes care of the update on discovery,
8 that takes care of the motion schedule, and that brings us to
9 the bail conditions.

10 Now I received the proposal of March the 3rd, and
11 looked at it carefully, I hope. And I've come to a broad
12 conclusion and then a list of questions. The broad conclusion
13 that I think I have reached — and it's provisional — is that
14 even if we do all of these things and even if we modify this to
15 address a series of questions that I still have, there is no
16 hundred percent guarantee possible, in the sense that given the
17 nature of the restrictions, the defendant's continued, though
18 somewhat constrained, liberty, his residential circumstances,
19 and the limits of the conditions, if he's determined and
20 inventive — and I suspect he's very inventive — and
21 technologically savvy, he could find a way around it, and
22 conceivably not get caught. Harder, certainly. But does
23 anybody disagree with that overall conclusion?

24 MR. ROOS: We do not disagree.

25 THE COURT: Mr. Everdell?

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1 MR. EVERDELL: Your Honor, it is hard to give the
2 Court a 100 percent ironclad guarantee with any set of bail
3 restrictions. What I think we've proposed and I think that is
4 a very good job of doing is restricting his access and his
5 usage in a way that is extraordinarily meaningful and that can
6 be tracked and, if there is a violation, can also reveal the
7 violation very easily to —

8 THE COURT: Well, that's true in part, but I'll get to
9 all the ways that it could be evaded that I know of. But the
10 proposal is he's going to have a flip phone, and so he can call
11 up somebody and do verbally something along the lines of what
12 he did in that text or email that we were all arguing about
13 that I characterized as trying to achieve a choir singing out
14 of the same hymn book. That's inescapable here if he has
15 access to telephonic voice communication, right?

16 MR. EVERDELL: Well, your Honor, I would — on that
17 point, I would say that if that's the concern, using normal
18 voice calls to call somebody inappropriately, the government I
19 think could very well, and I'm sure they will, get a pen
20 register on that phone number and know exactly who he's talking
21 to, and there already is a "no contact" provision that limits
22 the people he can actually speak to. And so that will be
23 readily apparent in realtime to the government if they get a
24 pen register.

25 THE COURT: That's a fair point, assuming that the

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1 government knows all the relevant telephone numbers on the
2 other end, right?

3 MR. EVERDELL: Yes, your Honor. It's — yes. So
4 there is always going to be I think some margin that —

5 THE COURT: Right. But there's no way around it. I
6 mean, if he calls a pay phone — if there still is one — in
7 Salt Lake City by some kind of prearrangement and the person he
8 wants to try to influence shows up at that pay phone at the
9 appointed time, the pen register is meaningless, right?

10 MR. EVERDELL: Your Honor, I understand the Court's
11 concern. Yes, the answer to that is yes. But I think in any
12 situation, with any defendant, given any bail conditions —

13 THE COURT: Always.

14 MR. EVERDELL: — there's always that possibility.

15 THE COURT: But this defendant has given some pretty
16 strong reasons. Pretty suspicious.

17 MR. EVERDELL: Yes, and I think we've countered those
18 concerns with equally strong restrictions. So I think what
19 we're looking for here, your Honor, is not a 100 percent
20 guarantee, because there's just no way to give that guarantee,
21 and nobody could do that. We're looking for what the least
22 restrictive conditions are that will guarantee that he abides
23 by the bail conditions, right, and the safety of the community
24 is guaranteed. So —

25 THE COURT: Those are two different things.

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1 MR. EVERDELL: Yes, I understand. Well, the real
2 standard is that he will — the least restrictive conditions
3 that will make sure that the community is preserved, is
4 protected. It cannot be a 100 percent guarantee, but I think
5 what we're striving for is a meaningful set of restrictions,
6 which I think we've given the Court, and I'm happy to explain.
7 If you want to talk in more detail about how these technologies
8 work, happy to do it. I'm also joined in the gallery by David
9 Sun, who's our technology consultant, who can provide a bit
10 more detail if the Court wishes.

11 But that's what we're striving for. I think the
12 conditions that we've imposed are extremely restrictive, and
13 what they guarantee, your Honor, fundamentally is we have to
14 balance the concerns that the Court has, I understand, with the
15 defendant's need to participate in his defense, and quite
16 frankly, your Honor —

17 THE COURT: Of course that has to be done. I
18 understand that.

19 MR. EVERDELL: Yes. And the other thing I would just
20 point out, your Honor, is — and I know the Court has to be
21 satisfied itself, but we've talked about it at great length
22 with the government, and they've consented to these conditions,
23 and this has been a product of quite a bit of negotiation and
24 discussion among ourselves and our respective technology
25 consultants. This does represent I think a fairly inventive in

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1 its own way and very restrictive way of restricting and
2 controlling the defendant's access so that he can participate
3 in his defense but also address the Court's concerns.

4 THE COURT: Let me raise then some of the other
5 concerns.

6 And you don't have to answer this now.

7 MR. EVERDELL: Yes, Judge.

8 THE COURT: These don't address the possibility of
9 someone else bringing a device into the house that the
10 defendant could use. I think that needs to be addressed. And
11 not just a computer but storage media, and there may be things
12 I'm not thinking about. There's no restriction on taking files
13 generated on what I'll call the approved device to refer to the
14 proposed new laptop out of the house, where it could go to
15 somebody who might cooperatively send out a whole bunch of
16 emails or other documents to who knows where for who knows what
17 purpose. I'm not entirely clear on who prepares this approved
18 device, who verifies and certifies that it complies with the
19 order, and who exactly it is who's supposed to do the
20 monitoring, because our pretrial services team in the court is
21 wonderful, but they would be the first to say they are not
22 forensic cyber types.

23 Another point not addressed is, what happens to
24 whatever devices he's got now? It's one thing to say he will
25 only use the approved device; on the other hand, if the others

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1 are still there, I don't know what happens. I don't understand
2 whether there is any realistic way to restrict the use of Zoom
3 as you propose it be limited. Maybe there is a way. I don't
4 know enough to know whether there's a way to keep track of
5 that.

6 And then a broader concern. And I'm not being
7 critical of anybody by any means. I know you're working hard
8 and trying to be as responsive as you can. The way this
9 March 3 letter is framed, it for the most part is conceptual,
10 as opposed to specifying exactly what hardware, what software,
11 so that if I think it's appropriate, I can consult either
12 pretrial services or an outside expert to see whether they
13 agree that it does whatever you're effectively representing
14 that it does, or has other problems. I'm not supposing that it
15 does. I'm not suggesting bad faith. What I'm really saying is
16 that if the four or five points I articulated as concerns were
17 addressed in a satisfactory way and I were to approve the rest
18 of what you've proposed conceptually, I don't have an order I
19 can sign.

20 MR. EVERDELL: Yes, your Honor.

21 THE COURT: So I guess the next step is either to
22 address the concerns I raised and then see if we're really all
23 in the same place and postpone doing a proposed order until we
24 get there, or go right to a proposed order, and that might be
25 more work than it's worth if it's not going to do the trick.

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1 MR. EVERDELL: Yes, your Honor. The Court raises some
2 valid concerns. I think the best way to proceed is for us to
3 take your Honor's points, work on them — I think there are
4 solutions to those questions. Let us work on it together and
5 then come up with a proposed order for the Court that is, as
6 you said, more specific.

7 One thing I would note, your Honor, in terms of the
8 particular software that we plan to use, I'm happy to provide
9 that information to the Court. I'm conscious of the fact that
10 there are malicious actors out there who would love to know
11 exactly what software we'd be using and how it's configured in
12 order to try to hack these devices, and so I wonder if it's
13 more prudent to submit those under seal to the Court.

14 THE COURT: That's a good point. I'm certainly, on
15 the basis of what you said, prepared to do that. You, of
16 course, are aware that other people will object to that if they
17 wish.

18 MR. EVERDELL: We'll have to decide whether we meet
19 the standard —

20 THE COURT: Yes, you're going to have to justify that.

21 MR. EVERDELL: Yes. And I will address — I don't
22 want to address the Court's concerns now. I think it's better
23 if we —

24 THE COURT: Yes.

25 MR. EVERDELL: The one thing I will address is

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1 Number 4, you said what happens to the defendant's devices that
2 he has now. The plan there is for us — the lawyers, his
3 lawyers — to take custody of those devices and take them out
4 of the house. We can arrange something different if that's not
5 satisfactory, but they would be away from him and not in his
6 possession.

7 THE COURT: No. Okay. I trust you. You're
8 professionals and officers of the court, and if you say you're
9 going to segregate him from the machines, that works for me.
10 But I want it in the order.

11 MR. EVERDELL: Yes, absolutely, your Honor. We'll get
12 to work.

13 THE COURT: What else? Anything? I know you want
14 some interim change, and I'll look at that.

15 MR. ROOS: I don't think anything else from us, your
16 Honor. We'll work with the defense on your questions and a
17 potential order.

18 THE COURT: Yes. I know you've asked me for an
19 interim change with respect to access to the VPN for the
20 database that you have that he needs to have in order to
21 prepare, and in principle I'm prepared to do that, but it seems
22 to me I need a more specific proposal.

23 MR. EVERDELL: Yes, your Honor. I think for that
24 maybe we could also prepare a separate order for that one
25 device and we'll specify exactly, to the extent we can

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1 publicly, and we'll work that issue out separately, but we will
2 specify what capabilities it has and what, how it's restricted,
3 so the Court understands how it is —

4 THE COURT: Right. I may well want to add to it some
5 of the points that are in your March 8th letter that are not
6 technical to broaden the interim production, because it was as
7 if you were negotiating a trust indenture here, I feel like,
8 and it takes time, you know, but we've got to have more relief
9 pending the hopefully successful outcome. Okay. I will think
10 about what those might be, but since you are, in principle, are
11 agreeable to all of them as a quote-unquote final interim
12 solution pending trial, I assume that whatever you've proposed
13 here is okay in the short-term interim while we generate a new
14 proposal.

15 MR. EVERDELL: Yes. So just so I'm clear what the
16 Court is saying, whatever is proposed in this letter would be
17 the interim bail conditions?

18 THE COURT: Maybe not all of them, but I might very
19 well want to handle the question of anybody bringing equipment
20 into the house, his transmitting anything out of the house,
21 things like that, that don't involve software or monitoring or
22 any of that stuff, but just make it a little tighter.

23 MR. EVERDELL: Right. So there will be actually two
24 orders that we're going to give to the Court. The first is the
25 immediate interim to deal with the laptop —

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1 THE COURT: Yes.

2 MR. EVERDELL: — and a few other things —

3 THE COURT: And, you know, access to the parents'
4 machines. I mean, some of that stuff has to be in place very
5 soon, like next week.

6 MR. EVERDELL: Understood, your Honor. Thank you.

7 THE COURT: Okay. Good. I think we're all in the
8 same place, and I thank you. And I'll put something that gets
9 docketed with the new motion schedule online. And have a good
10 weekend.

11 ALL COUNSEL: Thank you, your Honor.

12 THE LAW CLERK: All rise.

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